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ART UNIT	PAPER NUMBER
2176	

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _22 September 2006_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1,3-12 and 14-28_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1,3-12 and 14-28_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/22/2006 has been entered.

2.   Claims 1, 3-12, and 14-28 are currently pending. Claims 1, 12, and 23-28 are independent claims.

Priority

3.   Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5.   Claims 1, 3-12, and 14-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding independent claims 1, 12, and 23-27, the newly amended limitation,

"schedules are adjusted without requiring an input from a user," is rejected under 112,

second paragraph, as being indefinite because it is impossible for one of ordinary skill in

the art to determine exactly what the metes and bounds of the claimed invention are.

The newly amended limitation could be reasonably interpreted to broadly

preclude any input from the user (user appointments, name, time, etc.), or the newly

limitation can be interpreted to only preclude a user from inputting source code

manually to adjust a schedule (as opposed the software program automatically carrying

out the steps necessary to adjust the schedule, in response to stimuli). It is also difficult

to discern whether the scope of *"input from a user"* extends to pre-set settings or

conditions set by a user or programmer prior to the input of data or adjustment of the

schedule by the software and/or user.

Claims 3-11 and 14-22 are dependent upon claims 1 and 12 respectively.

Therefore, these claims are likewise rejected.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   **Claims 1, 3-10, 12, 14-21, and 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levinson, U.S. Patent No. 6,047,260, in view of Frid-Nielsen et al. ("Frid"), U.S. Patent No. 5,519,606.**

Regarding independent claim 1, Levinson discloses a schedule managing apparatus for managing schedules (see Abstract), comprising:

> ➤ *a schedule classifying unit which classifies an inputted schedule into any type of a term type schedule* (see col. 10, lines 12-39: Levinson teaches an intelligent planning and calendaring system with floating tasks) *in which designated date/time is set to a term of an operation* (see col. 10, lines 12-39: Levinson teaches an earliest start time and a latest stop time) *or a period type schedule* (see col. 16, lines 1-43: Levinson teaches a fixed task type schedule) *in which a designated certain period is assured for the operation* (see col. 6, lines 35-50: Levinson teaches a planned start/stop time) *on the basis of information of said inputted schedule* (col. 6, lines 35-50; col. 10, lines 12-39; col. 16, lines 1-43); and

> ➤ *a schedule adjusting unit which adjusts the schedules under different conditions in accordance with a combination of the schedule types of the term type and the term type, the period type and the period type, or the period type*

and the term type (see Abstract, col. 3 lines 64 *et seq.*; col. 10 lines 12-20 and

col. 16 lines 1-43: Levinson teaches adjusting schedules with floating and fixed

task type schedules or tasks), *in a case where said inputted schedule overlaps*

with an existing schedule with respect to the time (col. 4, lines 34-37; cols. 17-

19).

Levinson does not explicitly disclose *"maintains overlapped term type schedules*

and the schedules are adjusted without requiring an input from a user. However, Frid

discloses that events may overlap one another, whereby the duration lines are drawn in

an overlapping fashion. A user then has the option of reconciling this conflict or

maintaining the overlapped schedule. If the user wishes to reconcile the conflict, the

user can input his preference to reconcile the conflict or make an event exclusive. If the

user wishes to maintain the overlapped schedules (which is the Frid-Nielson system

default) (see col. 4 lines 56-58), the user simply refrains and does not intercede (see

col. 5 lines 52-64, and Fig. 3E).

Since both references from the same field of endeavor, the motivational purpose

of more providing more efficient means for reconciling ordinal information, especially

time-based information as disclosed by Frid would have been recognized in the

pertinent art of Levinson. It would have been obvious at the time the invention was

made to a person having ordinary skill in the art to modify the teaching of Levinson with

the teachings of Frid to include maintaining overlapped schedules.

Independent claims 12, 23, and 27 contain substantially similar subject matter and are rejected along the same rationale as independent claim 1.

Regarding claims 3 and 14, Levinson further discloses a schedule managing apparatus and method, wherein the inputted schedule is classified into any type of said term type schedule or said period type schedule on the basis of items regarding date/time, place, and contents included in the inputted new schedule (see col. 14, line 51 to col. 15, line 23; see also Figures 11-14 → i.e. date, time, duration, where, etc).

Regarding claims 4 and 15, Levinson discloses a schedule managing *apparatus and method,* wherein the inputted schedule is classified into any type of said term type schedule or said period type schedule on the basis of schedule information including an item regarding date/time, an item regarding a place, an item regarding persons concerned, an item regarding the contents, an item regarding priority, and an item including a schedule adjustment regarding a system which are inputted to a ToDo list (see col. 3, lines 64 *et seq.*; col. 9, lines 47-66; col. 14, line 51 through col. 15, line 23; see also Figures 11-14, 19-25 → i.e. names, goals (priorities), addresses, phone numbers, directions, schedule adjustment, etc.).

Regarding claims 5 and 16, Levinson discloses a schedule managing *apparatus and method,* wherein in the case where the inputted new schedule and the

existing schedule are the *term type schedules* (i.e. floating tasks) and terms of both of

said schedules *overlap*, the new schedule is assembled *as it is without adjusting both of*

said schedules (see cols. 17-19: Levinson teaches that when floating tasks overlap,

their original start times and stop times are left as is; the order of the tasks within the

start and stop times might be adjusted if there exists a priority weight difference

between tasks).

Regarding claims 6 and 17, Levinson discloses a schedule managing

apparatus and method, wherein in the case where the inputted new schedule and the

existing schedule are the *period type schedules* (i.e. fixed tasks) and periods of both of

said schedules *overlap*, the schedules is adjusted so as to leave the schedule of *high*

priority (see col. 10, lines 4-8, 34-37; cols. 17-19: Levinson teaches that with fixed tasks,

the task with higher priority preempts the fixed task with lower priority).

Regarding claims 7 and 18, Levinson discloses a schedule managing

apparatus and method, wherein in the case where *priority* of the inputted new schedule

and that of the existing schedule are the *same*, the schedule selected in accordance

with a *preset condition is left* (see col. 9, lines 2-7, 33-46; col. 13, lines 50-52 *et seq.*:

Levinson teaches a system or planner can preset scheduling conditions).

Regarding claims 8 and 19, Levinson discloses a schedule managing

apparatus and method, wherein as a condition in the case where the priority is the

same, a *user's selection, a selection of the existing schedule, or a selection of the new schedule is set* (col. 10, lines 2-4; col. 12, lines 4-6; col. 19, lines 24-31; see also Table 7: Levinson teaches that schedule conflicts can be resolved based upon user's selection).

Regarding claims 9 and 20, Levinson discloses a schedule managing *apparatus and method*, wherein in the case where one of the inputted new schedule and the existing schedule is a period type schedule and the other is the term type schedule, *if priority of the term type schedule is high, the schedules are adjusted so as to move the term type schedule to a period start position of the period type schedule* (see col. 10, lines 4-8, 34-37; cols. 17-19: Levinson teaches that the tasks with higher priority preempts or delays the tasks with lower priority).

Regarding claims 10 and 21, Levinson discloses a schedule managing *apparatus and method*, wherein when the *priority* of the term type schedule is *low*, the schedules are adjusted so as to move the term type schedule to a period *end position* of the period type schedule (see col. 9, lines 53-62; cols. 17-19 → Levinson teaches that low priority tasks are either delayed to the end of the schedule or cancelled altogether if no time remains in the schedule).

Claims 24-26 incorporate substantially similar subject matter as claim 1 and are rejected along the same rationale.

Regarding claim 28, Levinson discloses wherein the inputted schedule is classified into any type of said term type schedule or said period type schedule on the basis of items regarding date/time, place, and contents included in the inputted new schedule (see col. 14, line 51 to col. 15, line 23; see also Figures 11-14 → i.e. date, time, duration, where, etc) and the schedule is selected in accordance with a *preset condition is left* (see col. 9, lines 2-7, 33-46; col. 13, lines 50-52 *et seq.*: Levinson teaches a system or planner can preset scheduling conditions).

8.   **Claims 11 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levinson, U.S. Patent No. 6,047,260, in view of Frid-Nielsen et al. ("Frid"), U.S. Patent No. 5,519,606, in further view of Tracy Marks ("Marks"), Windows 95 ® Manual (www.windweaver.com/w95man.htm), last updated on May 18, 1997.**

Regarding claims 11 and 22, Levinson, in view of Frid, disclose a schedule managing *apparatus and method* as explained with respect to claims 1, 2, 9, 12, 13, and 20 above, but does not specifically disclose storing the schedule deleted by the adjustment of said schedules and a position before the adjustment of the schedule moved due to the adjustment of the schedules, and when the existing schedule is

deleted, referring to a stored history and performing a recovery of the schedule deleted due to the schedule adjustment or a return of the schedule to an initial position moved due to the schedule adjustment.

However, Marks discloses a Recycling Bin wherein when you choose to delete files Windows sends the files to a "recycling bin" rather than permanently deleting files so that you can later restore the files to their original locations for the purpose of avoiding accidental deletion of important files (see LESSON THREE: Managing Files → A. Recycling Bin).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the teaching of Levinson, in view of Frid, with the teachings of Marks to include a storage for deleted schedules that can later be recovered to its original position for the purpose of avoiding accidental deletion of important scheduled events.

Response to Arguments

9.   Applicant's arguments filed on 9/22/2006 have been fully considered but they are not persuasive.

Applicant contends that Levinson, in view of Frid, do not teach the newly

amended limitation *"the schedules are adjusted without requiring an input from a user".*

The Office respectfully disagrees.

The Office first points out that the newly amended limitation, *"schedules are*

adjusted without requiring an input from a user," is rejected under 112, second

paragraph, as being indefinite because it is impossible for one of ordinary skill in the art

to determine exactly what the metes and bounds of the claimed invention are.

As stated above, the newly amended limitation could be reasonably interpreted

to broadly preclude any input from the user (user appointments, name, time, etc.), or the

newly limitation can be interpreted to only preclude a user from inputting source code

manually to adjust a schedule (as opposed the software program automatically carrying

out the steps necessary to adjust the schedule, in response to stimuli). It is also difficult

to discern whether the scope of *"input from a user"* extends to pre-set settings or

conditions set by a user or programmer prior to the input of data or adjustment of the

schedule by the software and/or user.

Nevertheless, after further examination and consideration, the Office finds that

the Frid patent discloses that events may overlap one another, whereby the duration

lines are drawn in an overlapping fashion. A user then has the option of reconciling this

conflict or maintaining the overlapped schedule. If the user wishes to reconcile the

conflict, the user can input his preference to reconcile the conflict or make an event

exclusive. If the user wishes to maintain the overlapped schedules (which is the Frid-

Nielson system default) (see col. 4 lines 56-58), the user simply refrains and does not

intercede (see col. 5 lines 52-64, and Fig. 3E). Therefore, the Frid patent teaches that

schedules are adjusted "*without requiring input from a user*".

Applicant next contends that the Marks reference is limited to a folder in

Windows that maintains files until the user confirms intent to remove the files by

opening the folder, selecting and deleting files. The Office respectfully notes that this

argument is at the least rendered obvious in view of Levinson and Frid as discussed

above. It would have been obvious to one of ordinary skill in the art at the time of the

invention to create a macro or program for recycling bin deletion and history features for

the motivational purpose of automating the deletion and maintenance history of deleted

files.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Paul Nguyen-Ba whose telephone number is (571) 272-

4094. The examiner can normally be reached on 11 am - 7 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Heather Herndon can be reached on (571) 272-4136. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

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PNB
9/28/06

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